

**ORDINANCE NO. 1492**

**AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON,** relating to the acquisition by eminent domain of certain property located in the City of SeaTac; describing the public convenience, use and necessity of such property; providing for the condemnation, appropriation, and taking of such land, including the mode of payment of cost of acquisition; and directing the City Attorney to prosecute such action in King County Superior Court, by amendment of the condemnation petition currently pending for the condemnation authorized by Ordinance No. 1456.

**WHEREAS,** there exists in the City of SeaTac certain properties legally described in section 1 of this ordinance, and

**WHEREAS,** the City Council of the City of Des Moines intends to acquire by the payment of "fair market value" the following properties because such properties are needed to construct driveway, storm water, and related improvements for the correctional facility to be known as the SCORE Facility, which correctional facility is located at the southwest corner of the intersection of South 208<sup>th</sup> Street and 18<sup>th</sup> Avenue South (vacated) in Des Moines, Washington ("Property") as envisioned at the time of the creation of the South Correctional Entity Facility Public Development Authority which includes as Member Cities Auburn, Burien, Des Moines, Federal Way, Renton, SeaTac, and Tukwila, Washington, and

**WHEREAS,** the City Council finds that acquisition of the properties described in section 1 is critical to the construction and maintenance of the SCORE Facility, a south King County regional correctional facility that will provide correctional services to the above described Member Cities, and it is in the public interest to acquire such properties for public health, safety, welfare and transportation needs, and

**WHEREAS,** the City of Des Moines, Washington is authorized by chapter 70.48 RCW to contract for, establish and maintain correctional facilities in furtherance of public safety and welfare, and

**WHEREAS,** pursuant to RCW 8.12.030 the City is empowered to condemn land and property for jails, and

**WHEREAS,** the City is further expressly empowered by that statute to condemn land outside of its jurisdiction for drives (in this case the driveway and related improvements for the SCORE Facility), and

**WHEREAS,** the Port of Seattle has entered into a settlement agreement to convey a portion of the vacated 18<sup>th</sup> Avenue S to SCORE, and

**WHEREAS,** the remaining portion of 18<sup>th</sup> Avenue S and some small adjoining properties needed for storm water purposes are believed to be owned by the State of Washington, and

**WHEREAS,** the State of Washington currently has no plans for the property needed for the SCORE driveway and storm water improvements, and

**WHEREAS,** SCORE has had difficulty obtaining from the State of Washington the legal right to possess and use the vacated 18<sup>th</sup>

Avenue S for the purposes of the driveway for the SCORE Facility,  
and

**WHEREAS**, SCORE has requested assistance from Des Moines in obtaining possession and use of the property needed for the driveway, storm water, and related improvements, and

**WHEREAS**, it has been determined that the quickest way to obtain possession and use of that property from the State of Washington is by adding that property to the pending condemnation petition and having counsel for the parties enter into a stipulation for immediate possession and use, and

**WHEREAS**, the State of Washington has already stipulated to amendment of the petition, and

**WHEREAS**, the chain of title for 18<sup>th</sup> Avenue S is such that it may be necessary to name several additional parties to ensure that clean title is obtained for 18<sup>th</sup> Avenue S, both the portion believed to be owned by the State and the portion believed to be owned by the Port (and soon-to-be transferred to SCORE), and

**WHEREAS**, those potential additional parties include the City of SeaTac, Highline Water District, and King County; and

**WHEREAS**, the City of Des Moines or SCORE will attempt to clear title by acquiring quit claim deeds from these entities before adding them as parties to the condemnation, and

**WHEREAS**, based on the foregoing, the City Council finds that the most expedient alternative available for acquisition of the following properties or portions thereof may be by eminent domain; now therefore,

**THE CITY COUNCIL OF THE CITY OF DES MOINES ORDAINS AS FOLLOWS:**

**Sec. 1. Legal description.** The real properties that are the subject of this ordinance are legally described in Exhibit A attached hereto.

**Sec. 2. Public use necessity.** The public convenience, use, and necessity demand the acquisition of the real property described in section 1 herein for the SCORE Facility's driveway and storm water improvements, which serve this publicly operated regional correctional facility.

**Sec. 3. Condemnation of property.** All lands, rights, privileges, and other property lying within the limits of the real property described in section 1 herein are hereby condemned, appropriated, taken and damaged for the purposes described in section 2 herein, only after just compensation has been made, or paid into the court for the owner thereof in a manner provided by law.

**Sec. 4. Costs of acquisition.** The costs of the acquisition provided for by this ordinance shall be paid by the SCORE Public Development Authority Fund of the City of Des Moines, or such other funds of the City of Des Moines as may be provided by law.

**Sec. 5. Authority of City Attorney.** The City Attorney, or her delegee, is hereby authorized and directed to begin new proceedings and/or amend the pending proceedings and prosecute the actions and proceedings in a manner provided by law to condemn, take, damage, and appropriate the real property necessary to carry out the provisions of this ordinance. In conducting such condemnation proceedings, the City Attorney, or her delegee, is hereby authorized to enter into stipulations for the purpose of minimizing damages.

**Sec. 6. Severability - Construction**

(1) If a section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction such decision shall not affect the validity of the remaining portions of this ordinance.

(2) If the provisions of this ordinance are found to be inconsistent with other provisions of the Des Moines Municipal Code, this ordinance is deemed to control.

**Sec. 7. Effective date.** This ordinance shall take effect and be in full force five (5) days after its passage, approval, and publication in accordance with law.

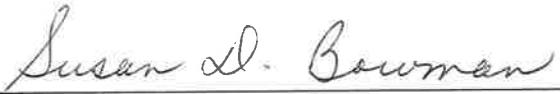
**PASSED BY** the City Council of the City of Des Moines, Washington this 7th day of October, 2010 and signed in authentication thereof this 7th day of October, 2010.

  
M A Y O R

APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Attorney

ATTEST:

  
\_\_\_\_\_  
City Clerk, ACTING

Published: October 13, 2010

LEGAL NOTICE  
SUMMARY OF ADOPTED ORDINANCE  
CITY OF DES MOINES

ORDINANCE NO. 1492, Adopted October 7, 2010.

DESCRIPTION OF MAIN POINTS OF THE ORDINANCE:

This ordinance relates to the acquisition by eminent domain of certain property located in the City of SeaTac; describes the public convenience, use and necessity of such property; provides for the condemnation, appropriation, and taking of such land, including the mode of payment of cost of acquisition; and directs the City Attorney to prosecute such action in King County Superior Court, by amendment of the condemnation petition currently pending for the condemnation authorized by Ordinance No. 1456.

The full text of the ordinance will be mailed without cost upon request.

Sandy Paul, CMC  
City Clerk

Published: October 13, 2010



Area "A" Description

Easement lying within WSDOT SR 509 right-of-way

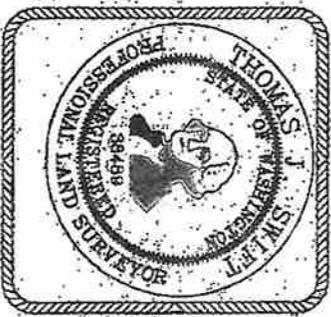
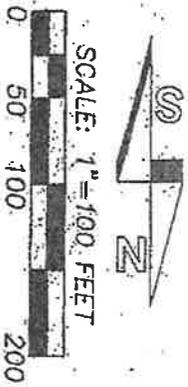
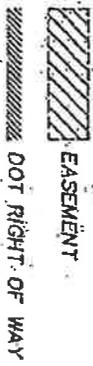
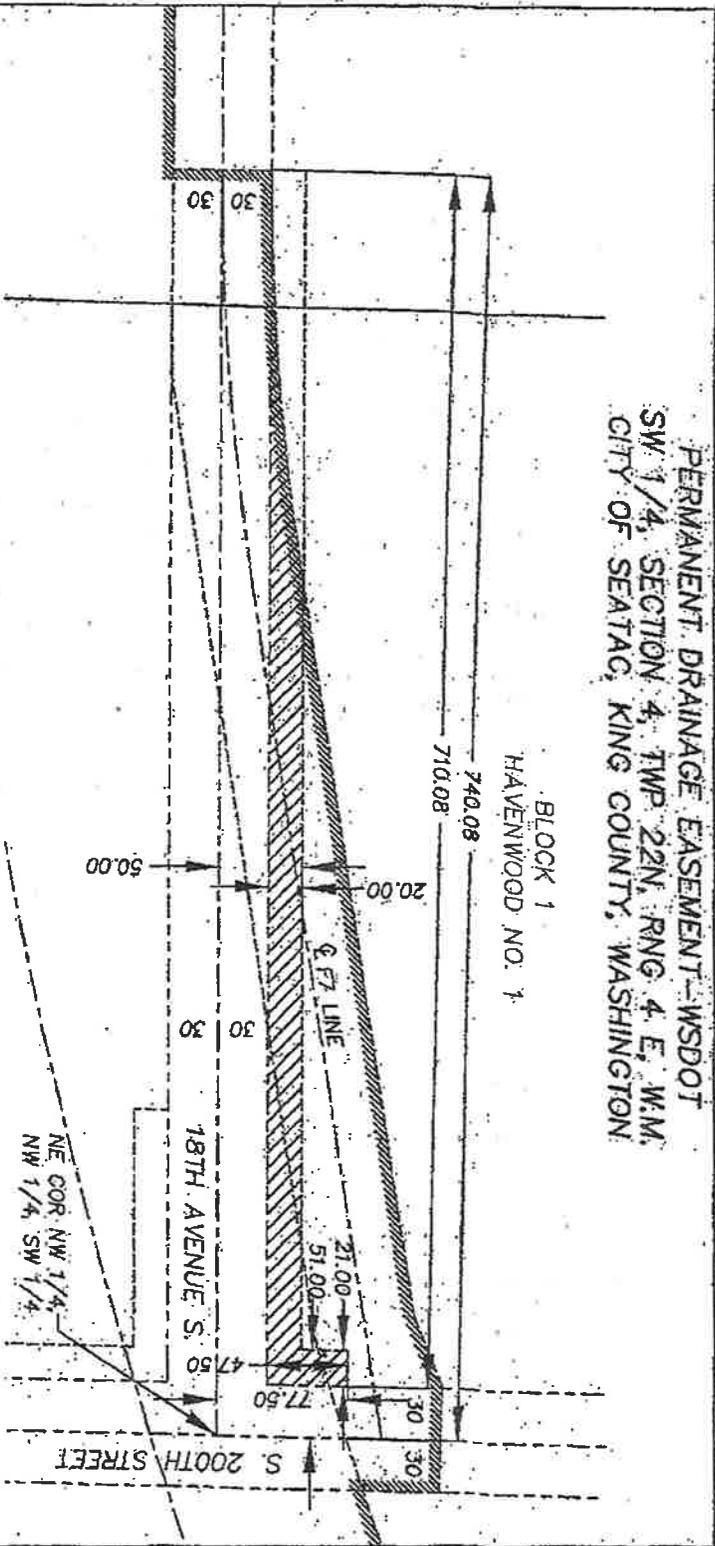
That portion of the West Half of the Northwest Quarter of the Southwest Quarter of Section 4, Township 22 North, Range 4 East, W.M. in King County, Washington described as follows:

The South 21.00 feet of the North 51.00 feet of the West 47.50 feet of the East 77.50 feet of said section.

Together with that portion of SR 509 right-of-way as depicted on Washington State Department of Transportation right-of-way plan, SR 509 MP 19.43 to MP 23.87, dated December 1, 1969 lying within the West 20.00 feet of the East 50.00 feet of the South 710.08 feet of the North 7.40.08 feet of said section.

PERMANENT DRAINAGE EASEMENT - WSDOT  
 SW 1/4, SECTION 4, TWP 22N, RNG 4 E, W.M.  
 CITY OF SEATAC, KING COUNTY, WASHINGTON

BLOCK 1  
 HAVENWOOD NO. 1



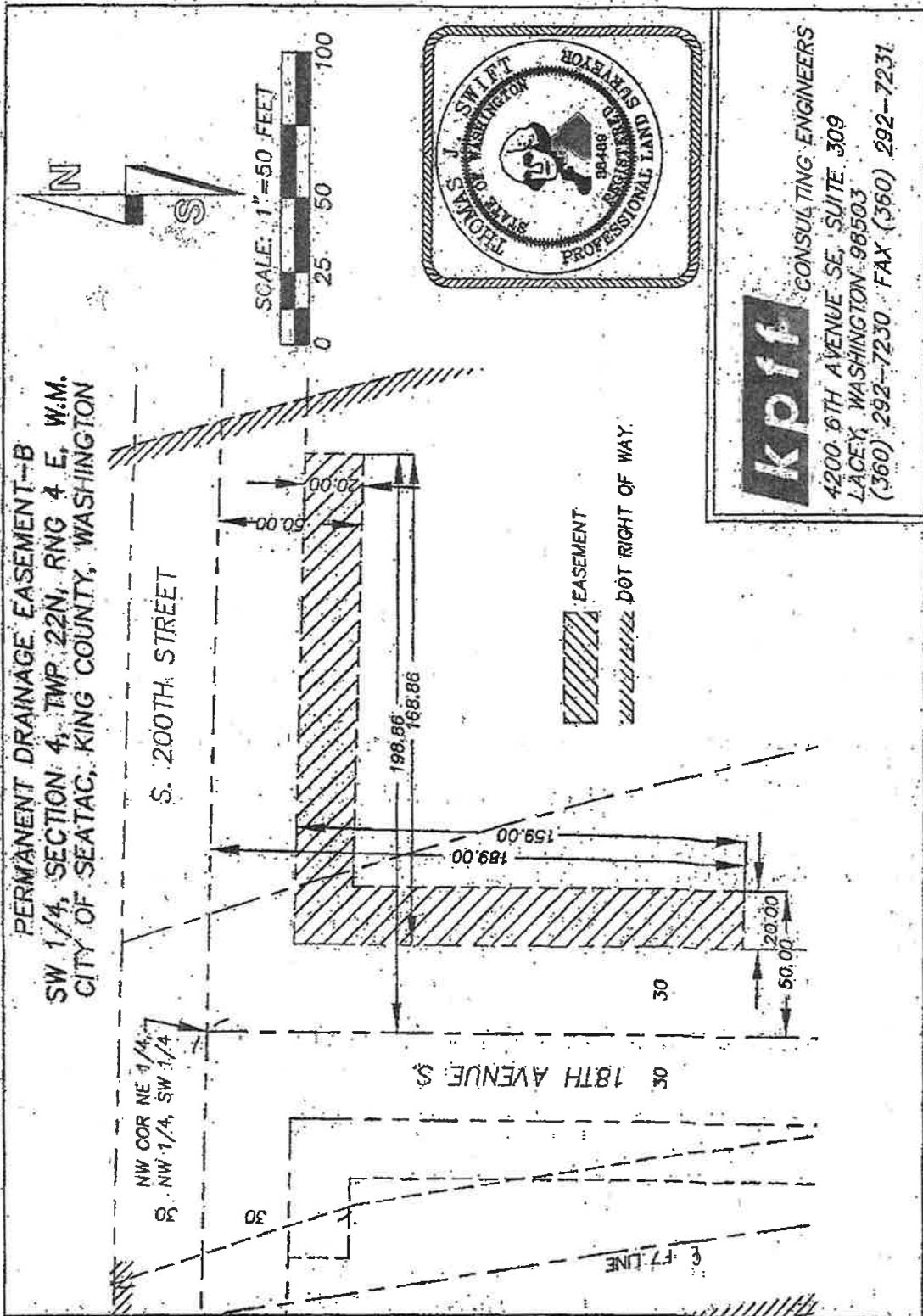
**KPIIT**  
 CONSULTING ENGINEERS  
 4200 6TH AVENUE SE, SUITE 309  
 LACEY, WASHINGTON 98503  
 (360) 292-7230 FAX (360) 292-7231

AREA "A"

### Area "B" Description

That portion of the Northeast Quarter of the Northwest Quarter of the Southwest Quarter of Section 4, Township 22 North, Range 4 East, W.M. in King County, Washington described as follows:

The East 20.00 feet of the West 50.00 feet of the South 159.00 feet of the North 189.00 feet, and the South 20.00 feet of the North 50.00 feet of the East 168.86 feet of the West 198.86 feet of said section.



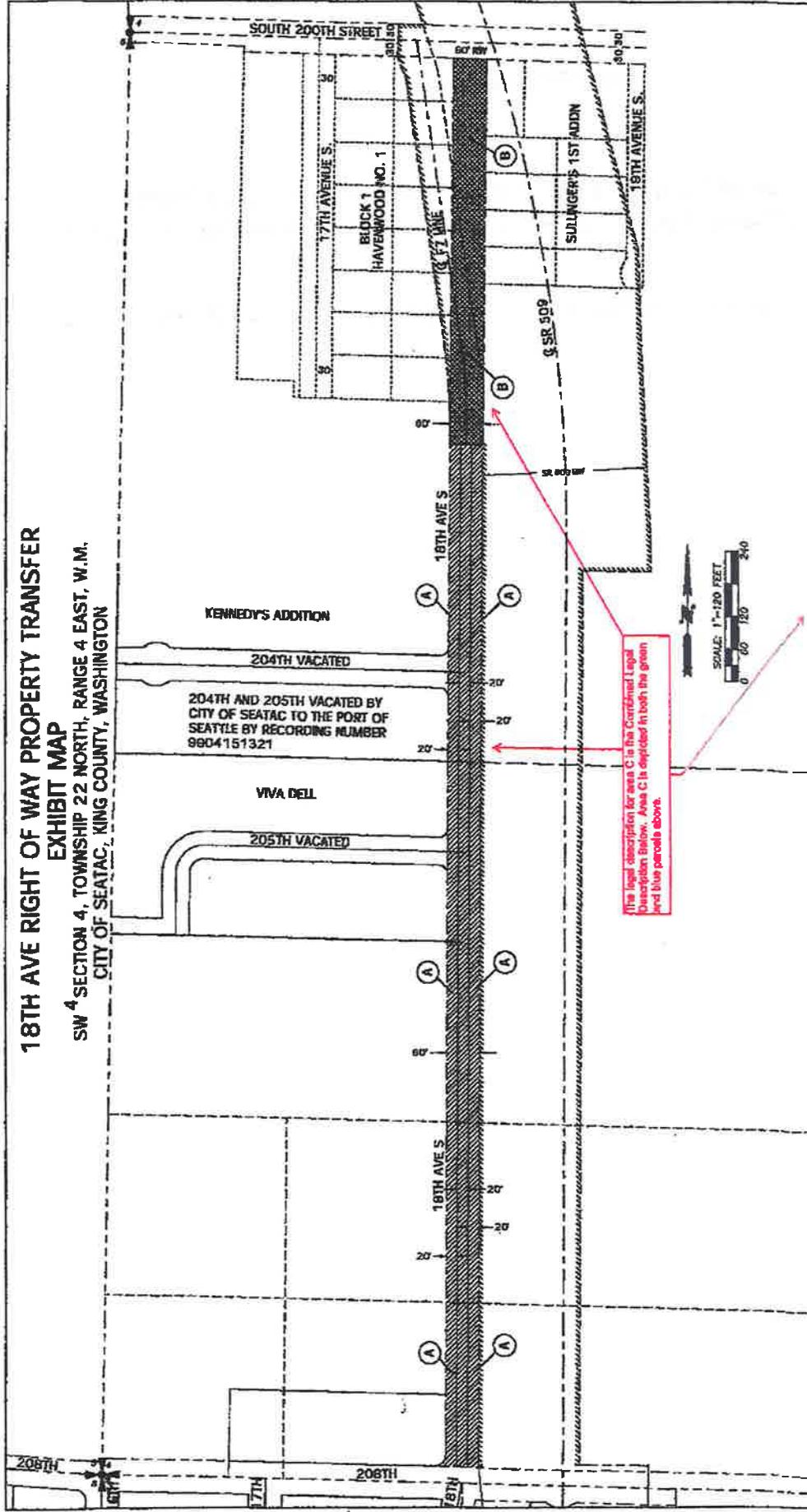
AREA "B"

#### Area "C" Description

That portion of the 60 foot right of way known as 18th Avenue S. lying northerly of S. 208th Street and Southerly of S. 200th Street. Situate in the Southwest quarter of section 4, township 22 North, Range 4 East, W.M., City of SeaTac, King County, Washington.

# 18TH AVE RIGHT OF WAY PROPERTY TRANSFER EXHIBIT MAP

SW 4 SECTION 4, TOWNSHIP 22 NORTH, RANGE 4 EAST, W.M.  
CITY OF SEATAC, KING COUNTY, WASHINGTON



The legal description for area C in the Combined Legal Description Below. Area C is depicted in both the green and blue parcels above.

### LEGAL DESCRIPTIONS:

PROPERTY 'A':

ALL THAT PORTION OF THE 60 FOOT RIGHT OF WAY BORN AS 18TH AVENUE S, LYING NORTHERLY OF S. 200TH STREET AND SOUTHERLY OF S. 200TH STREET, EXCEPT THEREFROM ANY PORTION LYING WITHIN SR 509 RIGHT OF WAY AS SHOWN ON WASHINGTON STATE DEPARTMENT OF TRANSPORTATION RIGHT OF WAY PLAN SR 509 MP 13.43 TO MP 23.67, DATED DECEMBER 1, 1999, TOWNSHIP 22 NORTH, RANGE 4 EAST, W.M., CITY OF SEATAC, KING COUNTY, WASHINGTON.

(A)

PROPERTY 'B':

ALL THAT PORTION OF THE 60 FOOT RIGHT OF WAY BORN AS 18TH AVENUE S, LYING NORTHERLY OF S. 200TH STREET AND SOUTHERLY OF S. 200TH STREET LYING WITHIN SR 509 RIGHT OF WAY AS SHOWN ON WASHINGTON STATE DEPARTMENT OF TRANSPORTATION RIGHT OF WAY PLAN SR 509 MP 13.43 TO MP 23.67, DATED DECEMBER 1, 1999, TOWNSHIP 22 NORTH, RANGE 4 EAST, W.M., CITY OF SEATAC, KING COUNTY, WASHINGTON.

(B)

### COMBINED LEGAL DESCRIPTION:

PROPERTY 'A' & 'B':

THAT PORTION OF THE 60 FOOT RIGHT OF WAY BORN AS 18TH AVENUE S, LYING NORTHERLY OF S. 200TH STREET AND SOUTHERLY OF S. 200TH STREET, SITUATE IN THE SOUTHWEST QUARTER OF SECTION 4, TOWNSHIP 22 NORTH, RANGE 4 EAST, W.M., CITY OF SEATAC, KING COUNTY, WASHINGTON.

### LEGEND:

-  PROPERTY 'A' OWNED BY CITY OF SEATAC
-  PROPERTY 'B' OWNED BY WISSOTY
-  SR 509 RIGHT OF WAY



**kpfi**  
CONSULTING ENGINEERS  
4200 6TH AVENUE SE, SUITE 309  
LACEY, WASHINGTON 98503  
(360) 292-7230 FAX (360) 292-7231

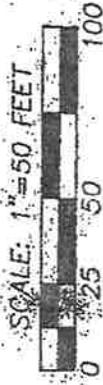
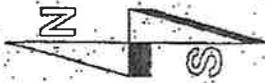
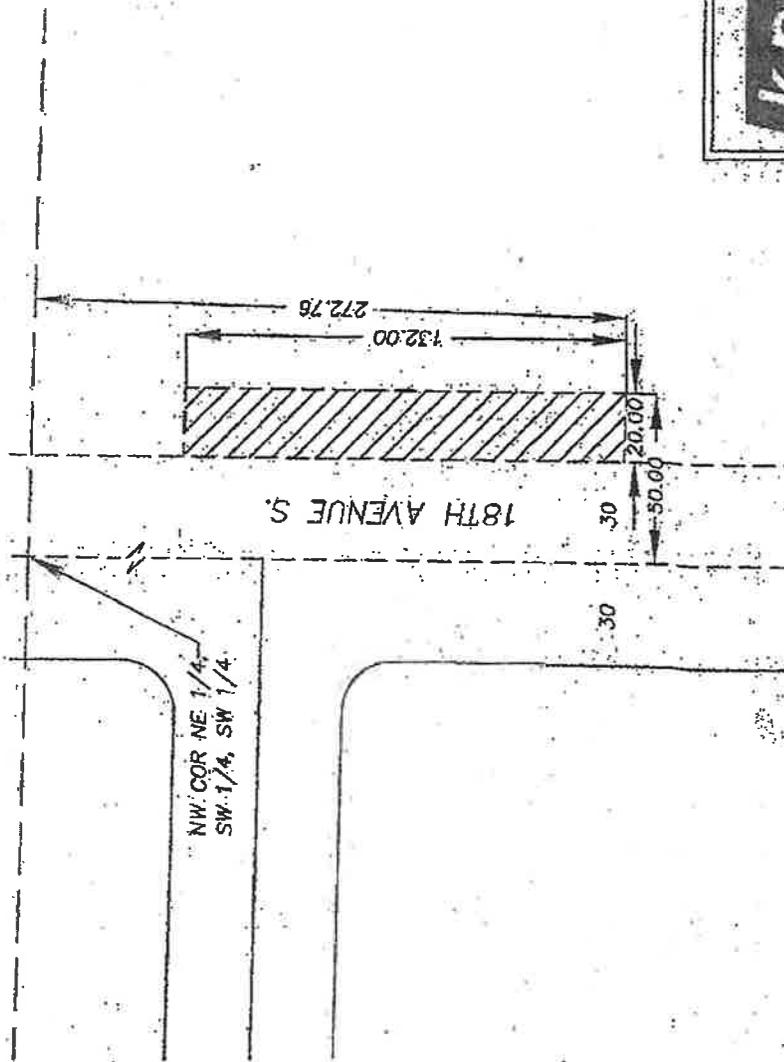
AREA "C"

**Area "D" Description**

**That portion of the Northeast Quarter of the Southwest Quarter of the Southwest Quarter of Section 4, Township 22 North, Range 4 East, W.M. in King County, Washington, described as follows:**

**The East 20.00 feet of the West 50.00 feet of South 132.00 feet of the North 272.76 feet of said section.**

PERMANENT DRAINAGE EASEMENT-D  
 SW 1/4, SECTION 4, TWP 22N, RNG 4 E, W.M.  
 CITY OF SEATAC, KING COUNTY, WASHINGTON



CONSULTING ENGINEERS  
 4200 6TH AVENUE SE, SUITE 309  
 LACEY, WASHINGTON 98503  
 (360) 292-7230 FAX (360) 292-7231

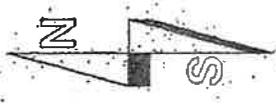
AREA "D"

Area "E" Description

That portion of the Southeast Quarter of the Southwest Quarter of the Southwest Quarter of Section 4, Township 22 North, Range 4 East, W.M. in King County, Washington, described as follows:

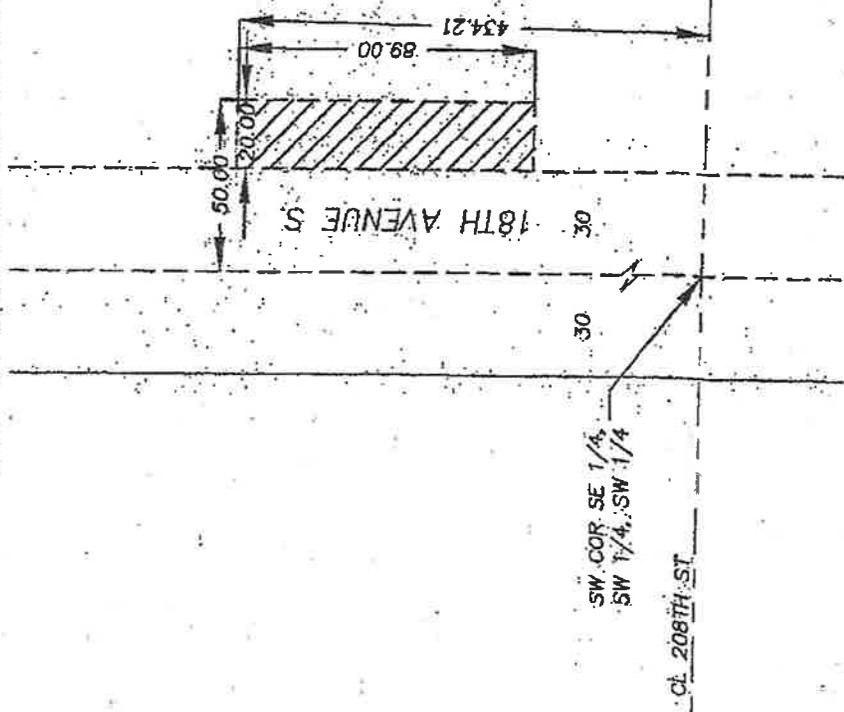
The East 20.00 feet of the West 50.00 feet of the North 89.00 feet of the South 434.21 feet of said section.

PERMANENT DRAINAGE EASEMENT-E  
 SW 1/4, SECTION 4, TWP 22N, RNG 4 E, W.M.  
 CITY OF SEATAC, KING COUNTY, WASHINGTON



**kptf**

CONSULTING ENGINEERS  
 4200 6TH AVENUE, SE, SUITE 309  
 LACEY, WASHINGTON 98503  
 (360) 292-7230 FAX (360) 292-7231



AREA "E"

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Morris & Taraday, P.C.

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September 20, 2010

Mr. Mark Johnson  
Senior Assistant City Attorney  
City of SeaTac  
4800 South 188th Street  
SeaTac, WA 98188-8605

**RE: SCORE Facility and Condemnation Notice**

Dear Mr. Johnson:

The purpose of this letter is to provide you with notice regarding the potential condemnation of property for driveway and storm water improvements for the SCORE Facility, a misdemeanor correctional facility that will serve the South King County cities of Auburn, Burien, Des Moines, Federal Way, Renton, SeaTac and Tukwila. The Facility is to be constructed on several parcels of land owned by the Port. The driveway and storm water improvements are to be constructed on land that we believe to be owned by the State of Washington (SCORE has already entered into an agreement to obtain a portion of the driveway property from the Port of Seattle). We are sending this notice to you because there may be some question about the title to the vacated 18<sup>th</sup> Avenue S right-of-way and we want to make sure that we resolve all possible title issues as part of this acquisition process. If you do not assert any interest in the vacated 18<sup>th</sup> Avenue S, then your participation in the condemnation could be made unnecessary by execution of a quit claim deed in favor of SCORE. Otherwise, it will be necessary to clear title through the condemnation process.

On September 30, 2010, and possibly again on October 7, 2010, the Des Moines City Council will consider a draft condemnation ordinance. We anticipate the ordinance will be adopted by the Des Moines City Council on either September 30, 2010 or October 7, 2010. If you are interested in reviewing the draft condemnation ordinance which would allow the City of Des Moines to pursue a condemnation action in King County Superior Court on behalf of SCORE, I would be happy to provide you with a copy. If adopted, the ordinance will set into motion the need to file an Amended Petition in Condemnation in Superior Court. Please note that Des Moines will seek a stipulation for immediate possession and use from all parties to the condemnation action.

**Attachment #2**

Seattle office: 1319 Dexter Avenue N., Suite 030, Seattle, WA 98109  
Phone: 206-518-5272; Fax: 206-518-5273; E-mail: jeff@morris-taraday.com

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We have spoken about this matter briefly but this letter provides the City of SeaTac with the formal notice required by law. I am also attaching a survey which identifies the six (6) parcels (areas A through E, plus the remainder of the vacated 18<sup>th</sup> Avenue S) that are the subject of this condemnation action. I ask that you advise me as to whether you will accept service of process on behalf of the City once the Petition is filed. Enclosed is the required notice of the Council Meeting in which the condemnation ordinance will be considered for final action.

Please let me know if you or a representative from your agency will be attending either meeting. I look forward to working with you to resolve this title issues.

Sincerely,

MORRIS & TARADAY, PC

A handwritten signature in black ink, appearing to read 'Jeffrey Taraday', with a long horizontal flourish extending to the right.

Jeffrey Taraday  
Special Counsel to  
City of Des Moines and SCORE

Enclosure

cc: Pat Bosmans, City Attorney  
Penny Bartley, Executive Director

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Morris & Taraday, P.C.

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September 20, 2010

Mr. Matt Everett  
General Manager  
Highline Water District  
P.O. Box 3867  
Kent, WA 98089-3867

**RE: SCORE Facility and Condemnation Notice**

Dear Mr. Everett:

The purpose of this letter is to provide you with notice regarding the potential condemnation of property for driveway and storm water improvements for the SCORE Facility, a misdemeanor correctional facility that will serve the South King County cities of Auburn, Burien, Des Moines, Federal Way, Renton, SeaTac and Tukwila. The Facility is to be constructed on several parcels of land owned by the Port. The driveway and storm water improvements are to be constructed on land that we believe to be owned by the State of Washington (SCORE has already entered into an agreement to obtain a portion of the driveway property from the Port of Seattle). We are sending this notice to you because there may be some question about the title to the vacated 18<sup>th</sup> Avenue S right-of-way and we want to make sure that we resolve all possible title issues as part of this acquisition process. If you do not assert any interest in the vacated 18<sup>th</sup> Avenue S, then your participation in the condemnation could be made unnecessary by execution of a quit claim deed in favor of SCORE. Otherwise, it will be necessary to clear title through the condemnation process.

On September 30, 2010, and possibly again on October 7, 2010, the Des Moines City Council will consider a draft condemnation ordinance. We anticipate the ordinance will be adopted by the Des Moines City Council on either September 30, 2010 or October 7, 2010. If you are interested in reviewing the draft condemnation ordinance which would allow the City of Des Moines to pursue a condemnation action in King County Superior Court on behalf of SCORE, I would be happy to provide you with a copy. If adopted, the ordinance will set into motion the need to file an Amended Petition in Condemnation in Superior Court. Please note that Des Moines will seek a stipulation for immediate possession and use from all parties to the condemnation action.

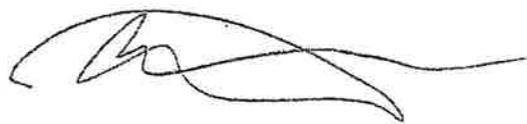
Seattle office: 1319 Dexter Avenue N., Suite 030, Seattle, WA 98109  
Phone: 206-518-5272; Fax: 206-518-5273; E-mail: jeff@morris-taraday.com

We have spoken about this matter briefly but this letter provides the Highline Water District with the formal notice required by law. Please find that notice enclosed. The notice identifies the parcels that are the subject of this condemnation action.

Please let me know if you or a representative from your agency will be attending either meeting. I look forward to working with you to resolve this title issues.

Sincerely,

MORRIS & TARADAY, PC

A handwritten signature in black ink, appearing to read "Jeffrey Taraday", with a long horizontal flourish extending to the right.

Jeffrey Taraday  
Special Counsel to  
City of Des Moines and SCORE

Enclosure

cc: Pat Bosmans, City Attorney  
Penny Bartley, Executive Director

**Sandy Paul-Lyle**

**From:** Legals [legals@seattletimes.com]  
**Sent:** Tuesday, September 21, 2010 2:06 PM  
**To:** Sandy Paul-Lyle  
**Subject:** RE: Notice for publication

Hi Sandy,

Your legal notice is scheduled to run on Thursday 9/23 and 9/30 on Ad# 4096631 costing \$116.96.

**Thank You,**  
Kathy Baldwin  
Legals Account Executive  
The Seattle Times Company  
Phone# 206-652-6018  
Fax# 206-515-5595  
[legals@seattletimes.com](mailto:legals@seattletimes.com)

**NOTICE OF FINAL ACTION  
REGARDING  
CONDEMNATION OF  
PROPERTY**

This written notice is required by RCW 8.25.290 advising you of the City of Des Moines City Council will consider taking final action on an ordinance to condemn certain real property at its council meeting scheduled on **September 30, 2010 at 7:30 p.m.** or as soon thereafter as the matter may be heard in the Council Chambers, 21630 11th Avenue South, Des Moines, WA 98198. It is possible that final action on the ordinance could be **deferred until October 7, 2010 at 7:30 p.m.** or as soon thereafter as the matter may be heard in the Council Chambers, 21630 11th Avenue South, Des Moines, WA 98198. If adopted, the ordinance would authorize the condemnation of a right-of-way consisting of the former (now vacated) 18th Avenue S between S 200th Street and S 208th Street and the following real property adjacent to that right-of-way, described and depicted in Exhibit A as areas A, B, D, and E.

Attachment #3

**From:** Sandy Paul-Lyle [mailto:SPaul@desmoineswa.gov]  
**Sent:** Tuesday, September 21, 2010 12:02 PM  
**To:** Legals